

UPDATED INFORMATIVE DIGEST

ORD #0316-05

These proposed regulations amend and adopt language in Title 22, Division 6, Chapter 5, Group Home Licensing Requirements; Title 22, Division 6, Chapter 7, Transitional Housing Placement Program Requirements and Title 22, Division 6, Chapter 1, General Licensing Requirements which regulate community care facilities in order to implement Assembly Bill (AB) 388 (Chapter 760, Statutes of 2014).

Current group home and transitional housing placement program (THPP) regulations require licensees to report specified incidents to the California Department of Social Services (CDSS). Generally, such reports are required for incidents in which the health or safety of a child in care is threatened. AB 388 added Section 1538.7 to the Health and Safety Code to require group homes and THPPs to make reports on all incidents in which law enforcement is contacted. Although many incidents that entail law enforcement contact already fall under existing regulatory reporting requirements, some do not.

Proposed regulatory changes will clarify certain ambiguities in Health and Safety Code section 1538.7 presented by AB 388 and allow CDSS to more effectively operationalize the bill's intent. Specifically:

- AB 388 specified timeframes for making reports that are subject to interpretation. It requires that an initial report be made “upon the occurrence” of an incident, but does not define that term. The proposed regulations would, following standard CDSS practice, interpret this term as meaning that an initial report must be filed no later than the next business day following the incident. AB 388 also required a follow-up report for each incident “At least every six months.” This could be interpreted to require an individual follow-up report on each incident within six months, or, alternatively, an aggregate report, at six-month intervals, following up on each incident occurring within the preceding six month period. The proposed regulations will interpret this provision as requiring an individual follow-up report for each incident within six months of the occurrence of the incident, and specify that said report could be immediate if all the information required in the follow-up report is known.
- AB 388 specifies a number of data elements associated with the incident to be reported. However, the language of the statute lists these elements as requirements of the six month follow-up report, rather than as part of an initial report, even though some or all of the information may be known to the licensee. Furthermore, even if a licensee voluntarily supplies additional information during

the initial report, the licensee would be required to report that information again as part of the follow-up report. The proposed regulations will interpret this provision of law as requiring that information known to the licensee at the time of making an initial report be included in the initial report, and that such information need only be provided in the follow-up report if it has changed since the initial report.

- The proposed regulations will specify that reports made in accordance with AB 388 requirements also satisfy any other existing regulatory reporting requirement as long as all required information for each reporting requirement is provided. This will prevent licensees from being required to report the same incident twice, both as an otherwise reportable unusual incident, and as one involving contact with law enforcement.
- AB 388 does not define the term “law enforcement.” The proposed regulations interpret it inclusively to mean any public official or agency acting in a law enforcement role, but also clarify that the reporting requirements for “contacts with law enforcement” do not extend to routine interactions between probation officers and the children they are supervising in placement in the affected facilities.
- Form LIC 624-LE (4/17), Law Enforcement Contact Report, which contains and clarifies requirements in Health and Safety Code section 1538.7 and current licensing regulations, is incorporated by reference in these regulations.

In accordance with statute (Welfare and Institutions Code section 11469(f)), the Department consulted with specified stakeholders to develop regulations that require group homes to implement programs and services intended to minimize law enforcement contacts and delinquency petitions arising from incidents at group homes. The proposed regulations include, in part, recommendations from stakeholder workgroups. While AB 388 requires performance standards to apply only to group homes, the practices developed through the workgroup have been applied to THPPs where appropriate in order to ensure consistency among facility types that are required to report law enforcement contacts.

45- day Public Notice Comment Period

These regulations were noticed to the public for a minimum of 45-days beginning July 22, 2016, and considered at a public hearing held on September 7, 2016, in Sacramento, California. Written testimony was received during the 45-day comment period from July 22, 2016, to 5:00 p.m. September 7, 2016. The Department has made changes in response to written testimony received during the 45-day comment period and upon further internal review of the regulations. These changes will be noticed to the interested public, as defined by Government Code sections 11347.1(b)(1)-(4), and made available for public inspection during a 15-day renote comment period.

15-Day Renote Public Comment Period

The additional regulation changes were noticed to the interested public, as defined by Government Code sections 11347.1(b)(1) through (4), and made available for public inspection during a 15-day renote comment period from May 24, 2017, to June 8, 2017. No comments were received and CDSS made no further changes to these regulations.